

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2001-191

June 25, 2001

CENTRAL MAINE POWER COMPANY
Annual Price Change Pursuant to Alternative
Rate Plan (Post-Merger) ARP 2000

ORDER APPROVING
STIPULATION

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

On November 16, 2000, we issued an Order Approving Stipulation which put into place a second Alternative Rate Plan for Central Maine Power Company (CMP) entitled "ARP 2000." In this Order we approve a Stipulation which allows CMP to increase its distribution rates by \$772,000 as part of its first annual price change under the ARP 2000. This amount reflects deferred revenue and previously approved for future recovery by the Commission in *Maine Public Utilities Commission, Investigation of Retail Electric Services and Jurisdictional Issues (Central Maine Power Company)*, Docket No. 99-185, Order Approving Stipulation (Aug. 28, 2000).

II. BACKGROUND AND DESCRIPTION OF THE STIPULATION

Under the terms of ARP 2000, CMP is required to submit specific information each year on March 15 to be used to compute the annual allowable price change to go into effect on July 1 of that year. On March 15, 2001, CMP submitted its first ARP 2000 annual filing for rates to go into effect on July 1, 2001. In its filing, CMP requested that it be allowed to increase its distribution rates by \$803,299 or .34%. The requested increase was based on a deferral of lost revenue along with carrying costs which occurred when CMP decreased its distribution rates for the period of June, 2000 through August, 2000 to offset a transmission price increase which went into effect on June 1, 2000. Since the productivity offset for the initial price change was set to equal the rate of inflation for the past year and since the earnings sharing and the service quality penalty mechanisms were not applicable to the first price change, the Company sought no other price changes.

The Company did note in its filing that it had incurred \$700,000 in mandated costs related to a storm in December of 2000. The Company argued in its filing that this storm qualified as a force majeure event. However, since the total of mandated costs was less than the \$3,000,000 recovery threshold under the ARP, the Company did not seek recovery for this event. The Company also requested that no adjustment be made for a \$71,000 gain on the sale of easements to Bangor Gas, which took place on May 17, 2000 and which the Commission ordered CMP to defer pending a ratemaking determination in a future rate proceeding. *Central Maine Power Company, Easements and Consents to Bangor Gas, LLC to Replace Natural Gas Transmission Line in Bucksport, Maine*, Docket No. 2000-120, Order Authorizing Easement in Transmission Line Corridor (Mar. 21, 2000).

The Commission issued a Notice of Proceeding on March 21, 2001, providing interested persons with an opportunity to intervene in this matter. The Office of the Public Advocate (OPA) and the Industrial Energy Consumers Group (IECG) filed timely petitions to intervene which were granted without objection.

On June 14, 2001, we received a stipulation entered into between the Company and the OPA. The stipulation resolves all ratemaking issues raised in the case. The stipulation allows CMP to recover \$772,000 in distribution rates over a one-year time period. This reflects the revenue deferred in Docket No. 99-185 plus carrying costs less the amount already recovered from a customer taking service pursuant to a targeted rate contract. The parties to the stipulation agree that CMP should be allowed to retain the \$71,000 gain on the sale of easements. The stipulation also provides that CMP will submit updated pricing flexibility floors to reflect discussions among the parties and revised transmission prices to go into effect on July 1, 2001. Finally, the parties to the stipulation also note that they do not agree as to whether the December, 2000 storm qualifies as a force majeure-type mandated cost, however, since the costs related to the storm were below the mandated cost threshold, the parties agree that the Commission should not resolve this matter as part of this proceeding.

On June 15, 2001, the IECG filed comments in opposition to the stipulation. The IECG noted that it did not object to the inclusion in rates of the revenues deferred in Docket No. 99-185. The IECG objects to all other aspects of the stipulation on the same grounds that it opposed the ARP 2000 plan in Docket No. 99-666. The IECG argues that the stipulation would unlawfully allow CMP to implement rates that have not been found to be just and reasonable and therefore, violates the statutory and constitutional requirements that regulated utilities may be granted protection from competition only if ratepayers are given protection from unjust and unreasonable rates.

III. DECISION

As we have now stated on many occasions, to accept a stipulation the Commission must find:

1. the parties joining the stipulation represent a sufficiently broad spectrum of interests that the Commission can be sure that there is no appearance or reality of disenfranchisement;
2. the process that led to the stipulation was fair to all parties; and
3. the stipulated result is reasonable and is not contrary to legislative mandates.

See Central Maine Power Company, Proposed Increase in Rates, Docket No. 92-345(II), Detailed Opinion and Subsidiary Findings (Me. P.U.C. Jan. 10, 1995), and *Maine Public Service Company, Proposed Increase in Rates (Rate Design)*, Docket No. 95-052, Order (Me. P.U.C. June 26, 1996). We have also recognized that we have an obligation to ensure that the overall stipulated result is in the public interest. See *Northern Utilities, Inc., Proposed Environmental Response Cost Recovery*, Docket No.

96-678, Order Approving Stipulation (Me. P.U.C. April 28, 1997). We find that the proposed Stipulation in this case meets these criteria.

The Stipulation before us was entered between the Company and the OPA. In past cases, we have found that these two entities, representing often opposite views in the ratemaking process, constitute a sufficiently broad spectrum of interests to satisfy the first criteria. See *Public Utilities Commission, Investigation of Stranded Cost Recovery, Transmission and Distribution Utility Revenue Requirements and Rate Design of Bangor Hydro-Electric Company (Phase II)*, Docket No. 97-596, Order at 6 (Feb. 29, 2000) and *Maine Public Utilities Commission, Investigation of Retail Electric Transmission Services and Jurisdictional Issues*, Docket No. 99-185, Order Approving Stipulation (Maine Public Service Company) at 3 (Aug. 11, 2000). In this case, we also note that our Advisory Staff was an active participant in the settlement process and has not indicated any objection to the Stipulation. We are, therefore, satisfied that a broad spectrum of interests are represented by the stipulation.

We also find that the second criterion has been met in this case. Our review of the procedural history in this case also indicates that all procedural safeguards were satisfied in this instance. We thus address the objection of the IECG as to whether the stipulation is reasonable, meets our legislative mandates and is in the public interest.

In *Maine Public Utilities Commission, Investigation of Retail Electric Services and Jurisdictional Issues (Central Maine Power Company)*, Docket No. 99-185, Order Approving Stipulation (Aug. 28, 2000), we specifically authorized CMP to defer \$725,000 plus carrying costs for future recovery in distribution rates which resulted from a decrease in distribution rates implemented to offset an increase in FERC jurisdictional transmission rates. The IECG does not object to this price change which in fact is the only price change agreed to in the stipulation. The IECG also does not appear to be objecting to the stipulation on the grounds that it allows CMP to retain the \$71,000 gain from the sale of easements to Bangor Gas. We conclude that allowing CMP to retain this gain, which occurred prior to the effective date of the ARP 2000, is reasonable.

The IECG does object to the stipulation, however, on the philosophical grounds that the underlying ARP 2000 plan is unlawful and therefore the stipulation implementing the plan must also be invalid. In Docket No. 99-666 we rejected the IECG's argument that an alternative rate plan enacted pursuant to 35-A M.R.S.A. § 3195 must contain a high-end earnings sharing provision. *Central Maine Power Company, Request for Alternative Rate Plan (Post-Merger) "ARP 2000,"* Docket No. 99-666, Order Approving Stipulation at 12-13 (Nov. 16, 2000). We concluded that we could ensure that CMP's rates remained just and reasonable by monitoring CMP's rates during the course of the ARP. *Id.* at 13. The IECG appealed this decision to the Law Court. On June 22, 2001, the Law Court issued its decision in *Industrial Energy Consumers Group vs. Public Utilities Commission*, 2001 ME 94, affirming the Commission's decision in Docket No. 99-666.

Even if the IECG had been successful in its appeal, the IECG's arguments are inapplicable to the current price change. Typical of other earnings sharing provisions, the ARP 2000 plan excludes from the sharing mechanism earnings based on the financial year prior the time the ARP became effective. See *Central Maine Power Company, Request for Alternative Rate Plan (Post-Merger) "ARP 2000,"* Docket No.

99-666, Stipulation, ¶ 4 (Sept. 7, 2000) and *Central Maine Power Company, Proposed Increase in Rates*, Docket No. 92-345(II), Stipulation, ¶ 7 (Oct. 14, 1994). The ARP 2000 plan became effective on January 1, 2001. Thus, even if the IECG had been successful in its appeal, a Law Court decision that we must include a high-end earnings sharing provision as part of ARP 2000, would not affect this price change.

We, therefore, find the IECG's arguments here to be without merit. The stipulation entered into between the Company and the OPA in this case properly carries out our decision adopting ARP 2000 and is consistent with all legislative mandates and in the public interest.¹

Accordingly, it is

O R D E R E D

1. That the stipulation entered into between Central Maine Power Company and the Office of the Public Advocate and filed with the Commission on June 14, 2001, is approved. A copy of this stipulation is attached hereto and incorporated by reference, and

2. That pursuant to the provisions of the stipulation, CMP shall be allowed to increase its rates in the manner prescribed by the stipulation to recover \$772,000 resulting from the deferral approved by the Commission in Docket No. 99-185.

Dated at Augusta, Maine, this 25th day of June, 2001.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

¹As an attachment to the proposed stipulation, the Company set out the impact of the distribution rate change agreed to in the stipulation as well as the Company's expected increase in FERC jurisdictional rates. Approval of the stipulation should not be construed in any way as an approval of such FERC jurisdictional rate changes.

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.